

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,**

**Appellant,**

**v.**

**KEITH T. LILLY,**

**Respondent.**

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DOCKET NUMBER WD76349

**Date: October 1, 2013**

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Appeal from:  
Jackson County Circuit Court  
The Honorable Vernon E. Scoville, III, Judge

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Appellate Judges:  
Division Four: James E. Welsh, C.J., P.J., Alok Ahuja, J. and James P. Williams, Sp. J.

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Attorneys:  
Devin M. Ledom, Kansas City, MO, for appellant.  
Rachel L. Townsend, Raytown, MO, for respondent.

# MISSOURI APPELLATE COURT OPINION SUMMARY

## COURT OF APPEALS -- WESTERN DISTRICT

STATE OF MISSOURI

v.

KEITH T. LILLY,

Appellant,

Respondent.

WD76349

Jackson County

Keith Lilly has been charged in the Jackson County Circuit Court with driving while intoxicated and leaving the scene of a motor vehicle accident. His criminal prosecution remains pending in the circuit court.

Lilly filed a motion to suppress challenged the admissibility of certain pretrial statements he made to the police, and any evidence which was the fruit of those statements. Lilly's motion alleged that the evidence was inadmissible because the State failed to establish the *corpus delicti* of either of the offenses with which he was charged, and because Lilly was not given the warnings required by *Miranda v. Arizona*, 384 U.S. 436 (1966), prior to being questioned. Following an evidentiary hearing, the circuit court granted Lilly's motion based on the *corpus delicti* rule.

The State filed this interlocutory appeal of the trial court's ruling pursuant to §§ 547.200.1(3) or (4), RSMo.

### APPEAL DISMISSED.

Division Four holds:

Whether or not raised by the parties, we have an obligation to consider *sua sponte* whether Missouri statutes give the State the right to appeal the trial court's order. Sections 547.200.1(3) or (4) authorize an appeal from a circuit court's pretrial rulings "[s]uppressing evidence" or "[s]uppressing a confession or admission."

Caselaw has given the term "suppressing," as used in §§ 547.200.1(3) and (4), a very specific meaning. Under this caselaw, an order excluding evidence is not considered to be a "suppression" ruling "unless it has the substantive effect of suppressing evidence because the evidence was, or would be, illegally obtained."

In this case, the trial court entered an order excluding Lilly's pretrial statements, and evidence discovered as a result of those statements, based on the State's failure to establish the *corpus delicti* for the charged offenses. The *corpus delicti* rule establishes foundational requirements for the admission of a defendant's extrajudicial statements at trial: unless the State introduces "slight corroborating facts" tending to show that a crime was committed, independent of the defendant's pretrial statements, those statements are not admissible. Because application of the *corpus delicti* rule does not depend on whether evidence was *illegally obtained*, a trial court's ruling excluding evidence under the *corpus delicti* rule does not "suppress" evidence, and such a ruling is not subject to interlocutory appeal under §§ 547.200.1(3) or (4).

Before: Division Four: James E. Welsh, C.J., P.J., Alok Ahuja, J. and James P. Williams, Sp. J.

Opinion by: Alok Ahuja, Judge

**October 1, 2013**

<b>THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.</b>
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